IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1180 OF 2004

Bhausaheb Suresh Gholap ... Petitioner

versus

The State of Maharashtra ... Respondent

...

Mr. Naveen Chomal, for the Petitioner.

Mr. A.S. Gadkari, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

28th January 2005

P.C.:

1. Heard Counsel for the parties. The only contention raised before this Court is that the Petitioner was externed on the basis that he was involved in two offences, which are cognisable offences. According to him, he has already been acquitted in respect of one offence, which was politically motivated. Besides, he submits that in the case of the co-accused who was involved in both the said offences along with the Petitioner,

the State Government has set aside the externment order. According to him, therefore, applying the same standard, externment order in the case of the Petitioner also deserves to be set aside and more particularly when the Petitioner has already undergone 14 months out of the total period of externment.

2. None of these arguments commend to me. Merely because externment order in case of the co-accused has been set aside, that by itself cannot be the basis to set aside the externment order in the case of the Petitioner. The learned A.P.P. rightly submits that in the case of the co-accused, the externment order has been set aside on the reasoning that statement of witnesses recorded in camera were not furnished nor any details thereof were referred to in the show cause notice, which ground is not available in the fact situation of the present case where the show cause notice provides for all details. In the circumstances, that cannot be the basis to set aside externment order against the present Petitioner. Insofar as the present Petitioner is concerned, the authorities have taken into

account the relevant materials which clearly indicate the activities of the Petitioner necessitating action under section 56(1)(a) of the Bombay Police Act. No fault can be found with the concurrent view taken by the two auithorities below in that behalf. No interference is warranted. Rejected.

(A.M.KHANWILKAR,J.)